

EXHIBIT F

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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3	STORMANS, INCORPORATED, doing)
4	business as RALPH'S THRIFTWAY;)
5	RHONDA MESLER; and MARGO THELEN,)
6	Plaintiffs,)
7	v.)
8	MARY SELECKY, Acting Secretary of)
9	the Washington State Department)
10	of Health, et al,)
11	Defendants.)
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Docket No. C07-5374RBL
Tacoma, Washington
November 30, 2011
VOLUME 3
ROUGH DRAFT

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE RONALD B. LEIGHTON
UNITED STATES DISTRICT COURT JUDGE.

APPEARANCES:

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Proceedings recorded by mechanical stenography, transcript
produced by Reporter on computer.

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12

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1 THE COURT: I have got a few because I want to
2 understand what has been done here.

3 EXAMINATION

4 BY THE COURT:

5 Q. The pharmacist rule applies to all pharmacists, correct?

6 A. Correct.

7 Q. The pharmacy rule applies to all pharmacies?

8 A. Correct.

9 Q. All pharmacies?

10 A. Yes.

11 Q. And the stocking rule applies to all drugs except for
12 Epicac, which is the one drug that has to be available at
13 every pharmacy, whether it's a formulary, a niche, a community
14 or hospital, correct?

15 A. I believe that's the way it's written, yes.

16 Q. Now, the rules apply to Catholic hospitals, pharmacies,
17 correct?

18 A. Correct.

19 Q. Does each hospital in the Catholic system, the St. Joe's,
20 St. Peters, Sacred Heart, Providence, do they have a pharmacy
21 in their hospital?

22 A. I don't know if all of them do, but quite a few of them
23 do.

24 Q. Do you know -- do you know whether or not a pharmacy is an
25 accreditation issue for a hospital?

1 A. An inpatient pharmacy -- let me clarify. When you said
2 pharmacy, many of them have an inpatient and outpatient
3 pharmacy.

4 Q. You have to have a pharmacy?

5 A. You have to have the inpatient -- you have to have
6 pharmaceutical services. Most of them do that through an
7 inpatient pharmacy.

8 Q. Do the hospitals stock contraceptives including emergency
9 contraceptions?

10 A. I don't know if they do.

11 Q. You don't?

12 A. I don't.

13 Q. Do you know if they incorporate their faith in their
14 mission statements?

15 A. I am assuming they do.

16 Q. You do not know whether or not they stock in the pharmacy,
17 as opposed to the emergency room, stock --

18 A. Again, inpatient versus outpatient, many of them have
19 outpatient pharmacies. I don't know if they have those
20 products in there or not.

21 Q. In the rule-making process, do the Franciscans or the
22 Sisters of Providence or Sacred Heart involve the stakeholders
23 to participate in the rule-making?

24 A. I would have to go look at who was part of the testimony.
25 We sent information out on our list serve that goes out to

1 people that sign up for it, so I don't know if they were
2 involved directly or not.

3 Q. What percentage of the hospital beds in the state are
4 provided by Catholic hospitals roughly?

5 A. Well, that's changing as we talk.

6 Q. Right.

7 A. I don't even know if I could make a guess.

8 Q. A significant proportion of the hospital beds in this
9 state, aren't they?

10 A. I would guess maybe 20 percent, but I would have to verify
11 that. There's additional affiliations being considered.

12 Q. If the nature of the community in the area around some of
13 the Catholic hospitals are low or middle income to below, like
14 Providence, St. Joe's, Sacred Heart, they have in their
15 community young women of child bearing age, does the hospital
16 have an obligation to anticipate the needs of the community?

17 A. I think for that outpatient pharmacy, the outpatient
18 pharmacy would.

19 Q. So if someone comes to the pharmacy and asks the pharmacy
20 for Plan B, they would have to deliver Plan B, wouldn't they?

21 A. They might have to.

22 Q. They could not refer it to the emergency room, could they?

23 A. I don't know how they might work if they are under the
24 same license or not.

25 Q. The issue is the public has a right to not encounter delay

1 or discrimination when getting a prescription filled, so says
2 *Seattle Times*, in a more genteel way than in Chicago, change
3 of heart are best pursued through a new line of work.

4 If the hospital declines to stock Plan B, does their
5 denial impact licensure of their pharmacy?

6 A. It might be a violation. Looking at the -- again, in that
7 outpatient pharmacy, and that impacts -- the action would be
8 against a pharmacy license.

9 Q. So the pharmacy would close?

10 A. That could be one option.

11 Q. What would the other option be?

12 A. It would depend on the Board what actions they might want
13 to take.

14 Q. Is it that subjective -- I mean, you've got one choice.
15 They are going to adhere to their faith, and they are going to
16 deny stocking Plan B. Is there any other choice but denying
17 the licensure, and what impact does that have on access to
18 medicine?

19 A. They may try -- a board may put together certain sanctions
20 or something up to or short of taking a license or probation
21 suspension, but it could be that that would be their action.

22 Q. It's an immutable force. I mean, what are you going to
23 do? The pressure is change their heart. They've got to get
24 out of the business, don't they?

25 A. Yeah.

1 Q. Enforcement since the rule was adopted -- the injunction
2 applied to Plan B but has not -- but the Board -- it does not
3 apply to other aspects of the rule. The injunction was only
4 to Plan B.

5 Has any enforcement effort been employed to force all
6 pharmacists to stock narcotics?

7 A. Not that I can think of at this point.

8 Q. All demographics, demographic groups need narcotic pain
9 meds, don't they?

10 A. Correct.

11 Q. So anybody in the community has a need for narcotic
12 medicines?

13 A. Correct.

14 Q. And there are some who do not stock narcotics. Your
15 investigators can see that in a few minutes in an
16 investigation, correct?

17 A. Correct.

18 Q. They haven't looked into that issue, correct?

19 A. I don't believe at this point they have.

20 THE COURT: All right. Thank you, sir. Anybody else
21 want to follow up?

22 MR. TOMISSER: I think, Your Honor, to assist the
23 Court in understanding the situation with Catholic hospitals
24 in the State of Washington, we'd be happy to provide a short
25 memorandum pointing out that this has been a matter of

1 legislation and agreement with those organizations in the
2 State of Washington.

3 THE COURT: I would like that because I know --

4 MS. WAGGONER: I am sorry, I didn't mean to
5 interrupt. Your Honor, I would just ask that we have a chance
6 to respond to that and potentially -- rather than have the
7 state recite the agreement they made with the Catholic
8 hospitals, we may have a representative from the Catholic
9 hospital.

10 THE COURT: I would very much like that. Mr. Boeder.

11 MR. BOEDER: I have been taking good notes. I have
12 no further questions.

13 THE COURT: Mr. Saxe, you are excused.

14 Thank you very much, sir.

15 Call your next witness.

16 MS. WAGGONER: We would call Ms. Christina Hulet.

17 THE COURT: Okay.

18 MR. O'BAN: We would like to publish the deposition
19 so we can use it.

20 THE COURT: Ms. Hulet, come forward to the lectern
21 please. Raise your right hand and be sworn.

22 Christina Hulet, called as a witness, duly sworn.

23 THE COURT: Please be seated at the witness stand
24 immediately to my left. Please keep the volume of your voice
25 up so the people in the courtroom can hear you. Speak slowly